

### ***Examiner's Amendment***

An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Edward Meilman on September 25, 2009.

The following amendments were discussed and agreed to by Applicant:

1) In claim 1, line 1, **delete** "or preventing".

### ***Reasons for Allowance***

The claimed invention of "a method of treating Obstructive Sleep Apnea (OSA) including Central Sleep Apnea (CSA), comprising snoring, sleep apnea and other forms of sleep disordered breathing, that comprises the administration of a pharmacologically effective amount of zonisamide" is novel and non-obvious. The closest prior art is due to Hedner et al. (WO 01/62243) in view of LaRoche et al. (*JAMA*, 2004). Hedner teaches a method of treating snoring, sleep apnea and other forms of sleep disorder breathing, all of which are encompassed by the term OSA (obstructive sleep apnea), with the administration of topiramate, an antiepileptic agent. Hedner does not teach zonisamide. LaRoche teaches that both topiramate and zonisamide are broad-spectrum anticonvulsants. Although both topiramate and zonisamide are

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anticonvulsants, the two compounds vary widely in structure and have differing mechanisms of action, thus it would not have been obvious to one of ordinary skill in the art to have employed zonisamide as a method of treatment of OSA. Thus the claimed invention is rendered neither anticipated nor obvious.

### ***Conclusion***

Claims 1-13, 22, 24, and 26 are allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sahar Javanmard whose telephone number is (571) 270-3280. The examiner can normally be reached on 8 AM-5 PM MON-FRI (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571) 272-0629. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

/S. J./

Examiner, Art Unit 1617

/Shengjun Wang/

Primary Examiner, Art Unit 1627